

PERAC'S 2017-2018 LEGISLATIVE AGENDA

Agency recommends three bills for the new Session

By Michael DeVito

Director of Public Affairs

The Public Employee Retirement Administration Commission filed three recommendations with the Clerk of the Massachusetts House of Representatives for consideration by the General Court during the 2017-2018 legislative session.

The proposed bills are:

AN ACT REPEALING CHAPTER 32, SECTION 90G^{3/4}

This bill seeks to protect employees who work beyond age 70 from age discrimination and to remove an unnecessary administrative burden for them.

The bill will repeal Section 90G^{3/4} which currently requires that an employee who has reached the age of 70 and wishes to continue to accrue creditable service and



receive regular compensation must elect to do so. Individuals in retirement systems that have not affirmatively accepted the provision of this paragraph may not accrue creditable service and receive regular compensation after reaching the age of 70.

The Commission is seeking to repeal Chapter 32 Section 90G^{3/4} because there is concern by the Commission's tax counsel

that Section 90G^{3/4} is discriminatory. Tax counsel has determined that contributions by members over age 70 must be made on a post-tax basis in order to preserve the overall IRS tax qualification of the retirement system, rather than the pre-tax basis that is applicable to members under age 70.

If the legislation is passed members would simply continue (Continued, page 2)

MASSACHUSETTS' PUBLIC RECORDS LAW CHANGES

Changes in effect as of January 1, 2017

By John Parsons

Deputy Director and General Counsel

On June 3, 2016 the Legislature passed "An Act to Improve Public Records", with the majority of provisions taking effect on January 1, 2017. In addition, the Secretary of State's Office promulgated updated regulations relative to Public Records Access in

December of 2016 with an effective date of January 1, 2017. These regulations may be found at 950 CMR 32.00. The new law and regulations are available on the Secretary of State's website along with a summary of the new law.

Changes to the public records law largely address the procedure that public entities must now follow in processing a request

for records. The definition of what is a public record has not changed under the new law. In addition, the exemptions to the public records law have remained largely unchanged, with "personal email" being added to the exemptions for public employees and their families and a new exemption created for the contact information for victims of adjudicated crimes and domestic violence. (Continued, page 5)

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making contributions and accruing creditable service after age 70 and their contributions would be on a pre-tax basis just like all other members of the system under age 70.

The second section of the legislation makes clear that any member who has previously made an election under the current provisions of section 90G^{3/4} will have said election maintained. The 90G^{3/4} election has always been, by statute, irrevocable and this provision maintains that requirement.

AN ACT PROVIDING FOR CONTINUING EDUCATION CREDITS FLEXIBILITY

This bill seeks to assist retirement board members in meeting their statutory requirements for continuing education. It provides flexibility to the Commission in determining how and when these requirements are met by Board Members.

Summary:

In its implementation of Section 20(7) of Chapter 32, the Commission has found that on occasion a member may meet the technical requirements of 18 hours of continuing education for their 3-year term of office but may not have met the requirement that at least 3 credits be earned each year or that no more than 9 credits may be earned in any one year of the term.

PERAC believes by completing 18 hours of continuing education training within three years certainly meets the spirit and the overall intent of the law. Having the ability to exempt retirement board members from the letter of the law - in exactly how they meet the 18 hour requirement - makes sense. Members often earn the required 18 credits per term however, they may not have done so exactly as prescribed in the current statute. In this instance they could be precluded from serving any subsequent terms on the board.

This was not the intent of the original legislation and this bill will allow the Commission to determine on a case-by-case basis, if exceptions to the framework of how the hours of training are earned will be allowed.

AN ACT RELATIVE TO CHAPTER 32, SECTION 15(7) DETERMINATIONS

This bill seeks to afford the Commonwealth's 104 retirement boards with responsibility for conducting hearings, evaluating evidence and subsequently making determinations on potential Chapter 32, Section 15(7) violations rather than PERAC. PERAC is currently directed to make such determinations but neither possesses the hearing authority nor other requisite tools to fulfill this statutory mandate.

Summary:

Section 15(7) was inserted in Chapter 32 by Section 9 of Chapter 36 of the Acts of 2012 and requires that no member of the retirement system is entitled to receive a retirement allowance based upon salary which was intentionally concealed or misreported. Section 15(7) provides that PERAC is responsible for making this determination.

PERAC's sole concern in this matter has always been to ensure that the mandate of the General Court that PERAC formulate determinations in Section 15(7) cases be fulfilled. Under current statutory constraints in PERAC's operational capabilities, effectively carrying out this mandate is problematic as the Commission lacks the authority to hold hearings, issue subpoenas, examine records and administer oaths.

The Commission's previous bill on this subject would have granted PERAC the necessary authority to conduct hearings in order to make the statutory determinations. Testimony at last session's Public

Service Committee hearing suggested that since retirement boards already possess the hearing, subpoena and related powers necessary to conduct the required evaluations and generate the determinations outlined in Section 15(7), that they should be empowered to do so. The Commission agreed. After deliberating this recommendation, it considered it a sound approach and redrafted the provision to so reflect.

The language of this bill reflects the proposal made at last session's hearing. Therefore the proposed language of this bill requires retirement boards to conduct the necessary hearings to make determinations under Section 15(7) instead of PERAC. In addition, the language provided assures that PERAC's general mandate to oversee retirement board activities will be upheld in these cases.

Comments and Suggestions Welcome

The Commission is hopeful that these enhancements to Chapter 32 will pass the General Court early this session and be effective as soon as possible to benefit employees, retirees and retirement systems throughout the Commonwealth. The Commission welcomes comments on the proposed legislation. We look forward to hearing from you. ■

FINAL LEGISLATIVE REPORT: THE 2015-2016 LEGISLATIVE SESSION

By Michael DeVito
Director of Public Affairs

The following is a summary of the 2015-2016 Legislative Session on several issues of importance to the Commission:

Chapter 77 of the Acts of 2016

This PERAC-proposed late-filed bill, An Act Further Regulating Survivors' Pension Benefits and Qualified Domestic Relations Orders, was successfully enacted into law in 11 months.

The objectives of the bill (H. 3566) were as follows:

- Effectively prohibit electing two benefits by one member;
- Expressly prohibit two full benefits being paid on account of one member;
- Provide that if an ex-spouse is named

as an option C beneficiary pursuant to a qualified domestic relations order on file with the retirement board, the option C benefit shall be paid and any amount so paid shall be deducted from the Section 9 benefit.

A PERAC-proposed OPEB appropriation was included in H. 4506, an FY'17 Supplementary Budget filed by Governor Baker

The legislature did not act upon this bill before the end of the session.

The bill would have provided funding for PERAC to conduct statutory OPEB-related activities.

Outside Sections 43 and 44

This PERAC-opposed legislation was defeated.

Originally introduced as House budget amendments, these sections were adopted in the House FY'17 Budget as Outside

Sections and emerged in the FY'17 Budget Conference Committee Report, H. 4450, as Outside Sections 43 and 44. If enacted, these Outside Sections would have weakened an aspect of pension reform enacted in Chapter 68 of the Acts of 2007.

Two FY '17 Budget Amendments to attempt to extend the so-called "Shield" law (G.L. c. 32, s. 23(6)) to the 104 other retirement boards by budget amendment were strongly opposed by PERAC and were defeated

- Amendment Gov 275 in the Senate – Rejected;
- Amendment #848 in the House - Withdrawn; and,
- A separate bill, S. 1383, seeking to extend the "Shield" law to the other 104 Retirement Boards, did not pass. ■

SAVE
the DATE

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

13th EMERGING ISSUES FORUM

where: **Hogan Conference Center**
College of the Holy Cross, Worcester, MA

when: **September 14, 2017**
9 am to 3 pm

Look for Registration Materials this Summer!

note! Attendance = **3** educational credits for Board Members



INTRODUCING PROSPER - New System Aims to Streamline PERAC Operations

By Natacha Dunker
Communications Director

PERAC will launch its new self-service portal beginning April 2017. This new system aims to streamline some of our internal processes and modernize the way administrators and outside vendors work with our agency. The vendor, CGI Group, has been working with PERAC staff to design a system that brings us squarely into the 21st century.

Rob Roberts from CGI provided an overview of the vision for this project, which will be called PROSPER, at the Fall MACRS conference last year. While the main goal of the project is to improve system capabilities and offer more efficient business processes, after conducting both internal and external studies, it was clear that the project would also need to focus on four key components in order to succeed:

1. Modernize Technology
2. Reduce Manual Processes
3. Consolidate Applications & Data
4. Reduce Paper

The Board Administrator Technology Survey sent to board administrators last September helped us assess the level of readiness that exists for the system. Out of the 104 boards, 68 responded. We thank you for your responses which indicated that the majority of boards are software and system ready for PROSPER. If your board did not get a chance to participate in the survey but would like to, please let us know and we will have another link to the survey emailed to you.

Collaborative also conducted in-person research with over 150 meetings with PERAC staff as well as on-site meetings with some boards, retirees, medical and financial vendors and MassIT.

The existing system for processing requests



will be changing once the PROSPER project is in full swing. The paper-based process that exists today is labor intensive and turn-around is sometimes slow. Additionally, because the process is so manual, there is always the possibility for human error and it is also difficult to easily and securely share information. Paper forms also have no built in validation and it can sometimes be difficult for boards to know the current status of their requests.

PROSPER will introduce a new way of doing things with the board self-service portals. Board administrators and members will have instant access to some of the information they most need such as educational requirements, status of member applications, and instant access to ALL PERAC memos (we heard you!).

Each retirement board administrator and board member will have their own secure access to the self-service portal and will be able to complete many transactions online 24 hours a day, significantly reducing the need for paper forms. Although this new system represents a radical change from our current way of operating, many things will remain familiar. Most forms will retain the same look and feel as the paper forms.

Also, your own board interactions with your members will remain the same. Many of the board vendors will also have access to PROSPER for submitting the many disclosures that are required by statute.

The project is scheduled for a staggered roll-out beginning this spring with Compliance. Please be on the lookout for training dates, system requirements, security access forms, and roll-out schedule as we get closer to offering you this self-service portal system. Online training materials and in-person training sessions are planned every step of the way as well as dedicated support staff to assist with technical questions.

PROSPER – it's easier and faster and you get more visibility and more information – the benefits are endless! We welcome your continued input, participation and support as we work to build a more efficient and transparent agency for the future. ■

MASSACHUSETTS' PUBLIC RECORDS LAW CHANGES

Changes in effect as of January 1, 2017 *(Continued from page 1)*

Finally, PERAC regulations found at 840 CMR 6.00, Standard Rules for Disclosure of Information, remain intact relative to maintaining and disclosing records, particularly records containing personal data.

Below are some of the requirements that are applicable to agencies and municipalities:

- **The designation of a Records Access Officer (RAO)** who shall be responsible for coordinating the entities' response to requests for access to public records. The contact information for the RAO shall be posted at its offices in a conspicuous place and on its website if it maintains one. RAO's must provide public records to a requestor in an electronic format unless the record is not available in such format or the requestor does not have the ability to receive or access the records in a usable electronic format.
- **Agencies are required to maintain on their website** (and municipalities to the extent feasible) electronic copies of commonly requested records, including final opinions, annual reports, minutes of open meetings and agency budgets.
- **Fees may be charged** at 5 cents per page for black and white paper copies or computer printouts of public records for both single and double sided sheets. If a response to a public records request requires more than 4 hours of agency employee time (2 hours for a municipality) the RAO may assess a fee of the hourly rate of the lowest paid employee with the skills necessary to search for, compile, segregate, redact or reproduce a requested record. The fee shall not exceed \$25 an hour.
- **Beginning January 1, 2017 an RAO must permit inspection or furnish a copy of a requested public record within 10 business days.** (Currently a records custodian must respond to a request for records in writing within 10 calendar days). RAOs may petition the Supervisor of Records for an extension if they are unable to grant access to the requested public records in this time period.

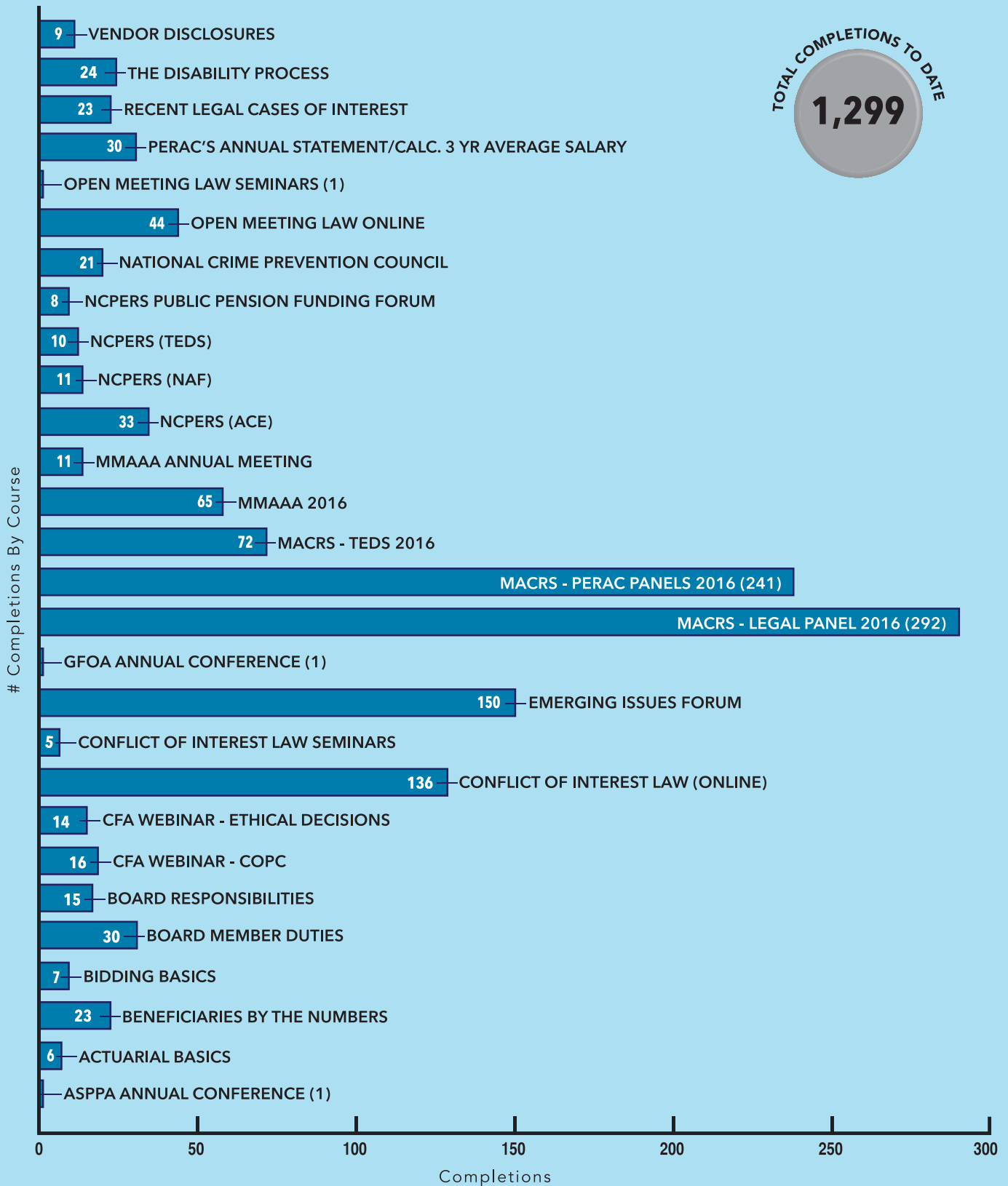
These are the main changes in the new law and are by no means exhaustive or completely detailed. As the public records law is overseen by the Secretary of State through its Public Records Division, questions that arise in the implementation of the new changes and the law generally should be directed to that agency.

PERAC has received questions as to whether local, county, and regional retirement boards are considered agencies or municipalities under the provisions of the new statute. This determination has a significant effect on the duties of the retirement board, as to scope of duties and date of implementation. In order to clarify this question, PERAC is seeking an advisory opinion of the Secretary of State as to the definition of an agency pursuant to this statute. In the meanwhile, many of the provisions summarized above apply to all public entities and must be complied with effective January 1, 2017.

We trust the foregoing is of assistance. If you have any questions concerning this matter, please contact the PERAC office. ■

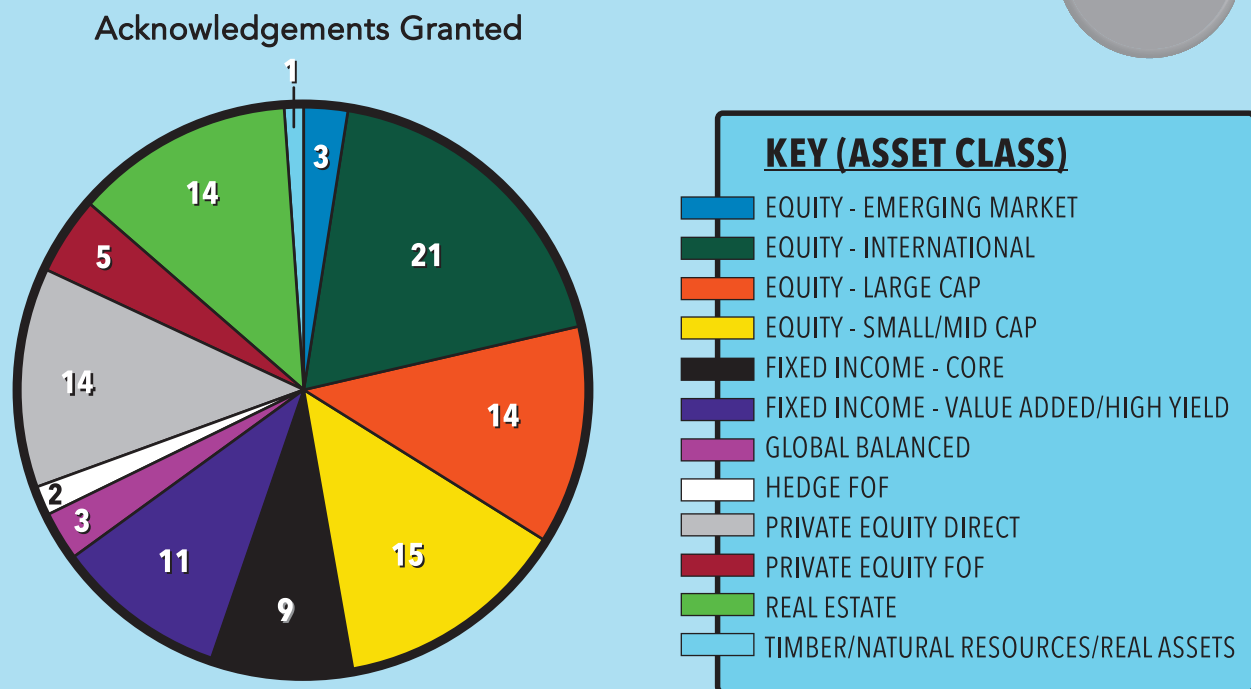
2016 COURSE BY COMPLETION

TOTAL COMPLETIONS TO DATE
1,299



Data as of 12/31/2016

PERAC ACKNOWLEDGEMENTS BY ASSET CLASS



Data as of 12/31/2016

KEY CONCEPTS: RETURN AND RATE OF RETURN

Reprinted from:
FINRA Investor Highlights
www.finra.org/investors

Virtually every investor has the same basic goal—to achieve the maximum amount of investment growth at a tolerable level of risk.

Achieving that balance means knowing yourself as an investor. What level of risk are you comfortable taking? Are you a conservative investor who does not want to risk losing any or most of your principal? Are you a moderate investor who wants

to protect your assets while increasing the value of your portfolio? Or, are you an aggressive investor who is willing to take calculated risks with the expectation of achieving greater-than-average returns?

Which brings us to two important investment concepts: return and rate of return. Let's take a closer look at both.

WHAT'S RETURN?

Investment return is the money you make or lose on an investment. Ideally, your return will be positive: your initial investment or principal will remain intact, and

you'll end up with more money than you invested.

But all investments carry some level of risk of loss—especially securities that are subject to market changes such as stocks, bonds and mutual funds that invest in stocks, bonds or both. The changes can be positive, but they can also be negative, meaning you can wind up with less money than you initially invested.

For example, let's say you buy a stock for \$30 a share and sell it for \$35 a share. Your return is \$5 a (Continued, page 8)

KEY CONCEPTS: RETURN AND RATE OF RETURN *(Continued from page 7)*

share minus any commission or other fees you paid when you bought and sold the stock. If the stock had paid a dividend of \$1 per share while you owned it, your total return would be a gain of \$6 a share before expenses. However, if you bought at \$35 and sold at \$30, you would have lost \$5 on your investment, not counting expenses. If you earned a dividend of \$1 per share, your actual loss would be reduced to \$4 a share. This brings us to the concept of “total return.”

Total return = Gain or loss in value + Investment earnings

Total return is a measure of your profit or capital appreciation before taxes and commissions or fees. When you evaluate your return on an investment, you should separately assess the impact of these other important costs, as they impact your bottom line. In the example above, if the commissions you paid both to buy and sell the stock—plus any taxes you must pay on net capital gains—totaled more than \$5, then you would have lost money. If you invest in mutual funds, you’ll find both total annual returns and after-tax annual returns in the fee table in the prospectus.

RATE OF RETURN

After determining the return on an investment, you may want to compare that return to returns on other investments. But the dollar amount by itself doesn’t tell you the whole story. To see why, compare a return of \$5 per share on a \$30 investment with a return of \$5 per share on a \$60 investment. In both cases, your dollar

return is the same. But your rate of return, which you figure by dividing the gain by the amount you invest, is different.

In this comparison, the rate of return (also called the percent return) on the \$30 investment is 16.67 percent ($\$5 \div \$30 = 16.666$), while the rate of return on the \$60 investment is 8.33 percent ($\$5 \div \$60 = 8.333$)—just half.

Rate of return = Total return ÷ Investment amount

You can evaluate the rate of return on savings accounts, bonds, mutual funds and the entire range of investment alternatives in much the same way. The more you invest to get the same dollar return, the smaller your rate of return will actually be.

The other factor you have to take into account in evaluating your return is the number of years you own the investment. There’s a big difference in realizing a return of 16.67 percent on an investment you own for just one year, or what’s called an annual return, and realizing the same return on an investment you own for five years. Your annualized return over a five-year period is only 3.13 percent.

USING RETURN

Return can be a useful tool in evaluating whether the investments you own are performing the way you expect, especially when you compare their return to that of similar investments or an appropriate benchmark, such as a market index that tracks the return of a group of simi-

lar investments. Specifically, you might compare the annual return on a large company stock or the return on a large-company stock fund to the annual return of the Standard & Poor’s 500 Index (S&P 500).

You can also use historical returns to compare the average annual return over time of different categories of investments, known as asset classes. The most common asset classes include stocks (equities), bonds (fixed-income securities) and cash or cash equivalents. The research firms that track historical returns have found that, both over the past century and during shorter 10-year cycles, stock has had the strongest return among the major asset classes, bonds the next strongest and cash equivalents the most stable but the lowest.

While the annual return for any asset class, or mutual fund investing in that asset class, may surpass its historical average in a given year or series of years, the return may underperform the average as well. Past performance rarely predicts future results. Don’t assume your return on an investment will be substantially higher than the average return on that investment over time. In fact, there’s no guarantee that it won’t be lower. ■

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